



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP 12 2013

OFFICE OF
WATER

Dear Honorable Leader:

The U.S. Environmental Protection Agency (EPA) is continuing consultation and coordination with federally-recognized Indian tribes on proposed revisions to the water quality standards regulation at 40 CFR part 131. In August 2010, EPA conducted tribal consultation early in the development of the proposed rulemaking. During the initial consultation process, 150 tribes participated in information sessions and expressed some level of interest in this action. EPA is continuing consultation and coordination with tribes now that EPA has published the proposed rule.

In this rulemaking, EPA proposes a limited set of targeted changes to the water quality standards regulation at 40 CFR part 131 to improve its effectiveness in helping restore and maintain the chemical, physical, and biological integrity of the nation's waters. You may be interested in this rulemaking if (a) your tribe is one of the 48 tribes that are eligible to be treated in a manner similar to a state (TAS) for the purpose of administering water quality standards under the Clean Water Act, (b) if your tribe has submitted an application for TAS for the purpose of administering water quality standards under the Clean Water Act, (c) if your tribe is developing water quality standards, or (d) if you have encountered issues relating to water quality standards in other jurisdictions.

This consultation and coordination process will be conducted in accordance with the *EPA Policy on Consultation and Coordination with Indian Tribes* (<http://www.epa.gov/tp/consultation/consult-policy.htm>). The EPA invites you and your designated consultation representative(s) to participate in a "tribes only" webinar on October 10, 2013 from 1:00 p.m. to 3:00 p.m. Eastern. EPA also extends an invitation for tribes to request formal government-to-government consultation during the consultation and coordination period. The EPA's consultation and coordination process with tribes for this action is expected to extend from the date of this letter until December 3, 2013 when the public comment period on this proposed rule ends.

In addition, during the 90-day public comment period for the proposed rule, the EPA will host one public meeting and two national webinars. Tribes, at their discretion, are also welcome to participate in the national webinars and the public meeting.

Attached is a consultation plan for this action that includes a description of the action under consultation, and the process the EPA intends to follow, including a timeline for the consultation and coordination, and information on how you can provide input on this

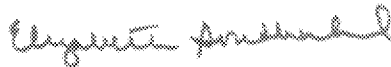
action. This information is also available on the EPA's Tribal Portal,
<http://www.epa.gov/tribal/consultation>.

The official EPA contact person for this consultation and coordination process is Janita Aguirre, Office of Water, (202) 566-1149, aguirre.janita@epa.gov. Please do not hesitate to contact her should you have any questions or if you would like to request alternate arrangements to the process outlined in the consultation plan.

Whether or not you participate in this consultation process, you will still have the opportunity to provide input on these revisions during the public comment period. The proposed revisions to the water quality standards regulation (40 CFR part 131) has been published in the *Federal Register* (78 FR 54517, September 4, 2013) and is accessible at [regulations.gov](http://www.regulations.gov). The EPA will accept public comments until December 3, 2013, 90 days after the proposed rule was published in the *Federal Register*.

We look forward to hearing from you on this important matter.

Sincerely,



Elizabeth Southerland
Director, Office of Science and Technology

Consultation and Coordination Plan
For the EPA's Water Quality Standards Regulatory Clarifications Proposed Rule
September 2013

Information on the Water Quality Standards Regulatory Clarifications Proposed Rule

On September 4, 2013, the EPA issued a *Federal Register* notice at 78 FR 54517 proposing revisions to the federal water quality standards (WQS) regulation at 40 CFR part 131. This regulation interprets and implements section 303(c) of the Clean Water Act. The core of the current regulation was established in 1983; since then, a number of issues have been raised by stakeholders or identified by the EPA in the implementation process that will benefit from clarification and greater specificity. Once final, the clarifications in the proposed rule will lead to improved water quality standard development, implementation and compliance as well as improving the ability of water systems to adapt and respond to the impacts of climate change.

The EPA is requesting comments and input from tribes on the proposed changes to the regulations. Specifically, the EPA is proposing to revise the WQS regulation in 40 CFR part 131 by:

- establishing a more transparent process for the Administrator to announce a determination that new or revised WQS are necessary under section 303(c)(4)(B) of the Act;
- ensuring authorized tribes and states are striving to meet the highest attainable water quality goals even where Clean Water Act goals are unattainable;
- ensuring authorized tribes and states consider updating their WQS to reflect the EPA's latest criteria recommendations;
- enhancing state and tribal implementation of antidegradation policies and helping better maintain and protect high quality waters;
- providing regulatory flexibility and boundaries to allow authorized tribes and states to achieve water quality improvements before resorting to a use change; and
- clarifying that, in order to issue compliance schedules, authorized tribes and states must first authorize compliance schedules in their WQS regulations.

For more information, see the EPA's water quality standards website at <http://water.epa.gov/scitech/swguidance/standards/>. In addition, for the complete proposed regulation and information about the rulemaking and public outreach process, see http://water.epa.gov/lawsregs/lawsguidance/wqs_index.cfm.

Potential Impacts to Tribes

All tribes, especially those that could potentially be affected by the water quality standards regulatory clarifications, are invited to participate. We greatly appreciate any and all tribal views on the water quality standards regulatory revisions we are contemplating to strengthen the protection of our Nation's waters.

Your tribe may be impacted by this rulemaking if (a) your tribe is one of the 48 tribes that are eligible to be treated in a manner similar to a state (TAS) for the purpose of administering water quality standards under the Clean Water Act, (b) if your tribe has submitted an application for TAS for the purpose of administering water quality standards under the Clean Water Act, (c) if your tribe is developing water quality standards, or (d) if you have encountered issues relating to water quality standards of other jurisdictions.

Opportunities for Tribes to Participate

The EPA has done extensive outreach on this rulemaking prior to its proposal. In 2010, EPA sent letters to the federally-recognized Indian tribes announcing the beginning of the rulemaking process and offering opportunities for consultation and coordination. EPA conducted tribes-only national teleconferences on August 19 and December 14, 2010, to discuss potential changes to the water quality standards regulations and receive ideas and views from the tribes. Input received from tribes included interest in revisions to triennial review requirements, support for antidegradation and WQS variance revisions, concerns about whether the revisions will incur new costs for tribes and an interest to continue coordination and consultation throughout the rulemaking process. EPA also conducted two "listening sessions" for the general public to which tribes were invited. EPA considered all of the ideas and input received in those and other sessions in developing the proposed rule published in the *Federal Register* (78 FR 54517, September 4, 2013).

The EPA is seeking discussion with tribes and feedback on the proposed rulemaking. The agency will hold a tribes-only webinar for tribal leaders and staff. The webinar will consist of two parts. The first part will provide tribes an opportunity to ask questions and learn more about the proposed revisions to WQS rulemaking. The last part of the webinar will be reserved for consultation comments from tribal leaders or their consultation designees.

Tribes may submit written consultation comments to:

Janita Aguirre
1200 Pennsylvania Ave NW
Mailcode: 4305T
Washington, DC 20460

Tribes may also participate in any public review and comment process. The EPA is holding one public meeting and two national webinars on this action. To access the public meeting and national webinars schedule and for more information see the EPA's website for this action at: http://water.epa.gov/lawsregs/lawsguidance/wqs_index.cfm.

Tribes may access this letter, and related consultation information on the EPA Tribal Portal under Tribal Consultation Opportunities, located at:
<http://tcots.epa.gov/oita/TConsultation.nsf>.

The combined goal for all of these efforts is to ensure that there is sufficient information for tribal officials to make an informed decision about the desire to continue with consultation and to understand how to provide informed input.

The table below lays out the process and timeline for government-to-government consultation and coordination process.

Date	Event	Contact Information
09/04/2013-12/03/2013	Timeframe for Tribal Consultation	EPA contact: Janita Aguirre 1200 Pennsylvania Ave NW Mailcode: 4305T Washington, DC 20460 Phone: (202) 566-1149 E-mail: aguirre.janita@epa.gov
10/10/2013 from 1:00 p.m.—3:00 p.m. Eastern	Tribal Information and Consultation Webinar	The webinar will be held using Adobe® Connect. To register for the webinar, please visit: http://www.tetrattech-ffx.com/wqsregs/tribal/ . You will receive an email confirmation after your registration has been submitted. Following registration and within one week of the webinar, you will receive an email with information for accessing the webinar on the day of the event.
End date of tribal consultation:12/03/2013	Tribes may submit written comments	Janita Aguirre 1200 Pennsylvania Ave NW Mailcode: 4305T Washington, DC 20460

